IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

WP(C).No. 37487 of 2007(K)

PETITIONER:

M/S.PARAMOUNT APARTMENTS, A PARTNERSHIP FIRMS WITH ADDRESS NO.1, CHANGAMPUZHA NAGAR, COCHIN-33, REP. BY ITS PARTENR SRI.PAUL JOSEPH K, S/O.JOSEPH, AGED 46 YEARS, KURUPPUMADOM, CHANGAMPUZHA NAGAR,COCHIN-33.

BY ADV. SRI.V.M.KURIAN

RESPONDENTS:

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1. MARYKUTTY BABU, W/O.BABY THOMAS, MYLADY HOUSE, SAHRUDAYA NAGAR, PUTHIYA ROAD, VENNALA P.O., COCHIN-28.

2. BABY THOMAS, S/O.THOMAS, RESIDING AT SAHRUDAYA NAGAR,PUTHIYA ROAD, VENNALA P.O., COCHIN-28.

BY ADV.SHRI B.JAYASANKAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/12/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J.

W.P.(C). NO. 37487 OF 2007

Dated this the 18th day of December, 2007

J U D G M E N T

This writ petition is filed against the order of the Subordinate Judge, Ernakulam, in I.A. 6069/07 in O.S. 386/05. It is an application for issuance of a Commission. It has been dismissed by the court below. It is submitted that there exists 69 piles. The court wanted to ascertain from an expert whether by inspecting the same on the basis of ultra sound device it is likely to cause damage to the building. The court also opined the existence of 69 piles, is admitted by the defendants, and on this ground it negatived the prayer for issuance of a Commission.

2. Heard the counsel for both sides. Learned counsel for the defendants in the suit submits that the defendants have admitted that 69 piles to be inspected are there as seen in the plan of the plaintiff in the suit. Who has constructed it etc., are all matters which requires larger consideration and this may be one piece of evidence that may have to be looked into. In the light of the said submission that 69 piles are situated in the place, as is seen in the plan of the plaintiff, there is no necessity for inspection of the property by an Advocate Commissioner. With these observations the writ petition is disposed of.

M.N.KRISHNAN, JUDGE

vps